

Department of Planning and Budget 2022 Fiscal Impact Statement

1. **Bill Number:** SB486

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** McClellan

3. **Committee:** Judiciary

4. **Title:** Workplace violence protective orders.

5. **Summary:** Provides that an employer may petition the court for a workplace violence protective order to protect the health and safety of its employees. The bill provides the information that must be included in such a petition to the court, and the conditions that may be imposed on the order's respondent.

6. **Budget Amendment Necessary:** Yes, Item 404.

7. **Fiscal Impact Estimates:** Preliminary. See Item 8 below.

8. **Fiscal Implications:** The proposed legislation could increase the number of people convicted of crimes related to violations of protective orders. Under current law, a first offense of a violation of a protective order under §§ 19.2-152.8 (emergency protective orders), 19.2-152.9 (preliminary protective orders), or 19.2-152.10 (protective order) is punishable as a Class 1 misdemeanor; those convicted are subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both. Anyone convicted of a second offense of violating a protective order within five years of the first offense when either offense was based on an act or threat of violence is also subject to a mandatory minimum term of confinement of 60 days.

A third or subsequent violation in a 20-year period with at least one offense involving an act or threat of violence is punishable as a Class 6 felony. For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. An individual convicted of a felony offense for a third or subsequent violation is subject to a six-month mandatory minimum term of incarceration. It is also a Class 6 felony for a person who is the subject of a protective order to (i) commit assault and battery resulting in injury to a protected party; (ii) stalk a protected party; (iii) enter the home of a protected party; or (iv) violate the order while armed with a deadly weapon.

According to data from the Commonwealth's Case Management System (CMS), 29 offenders were sentenced for a felony protective order violation in FY 2020 and FY 2021. In 22 of these cases, this was the primary, or most serious offense. Of these, 68.2 percent

received a local-responsible (jail) term with a median sentence of six months, 18.2 percent received a state-responsible (prison) term with a median sentence of 1.4 years, and the remaining 13.6 percent did not receive an active term of incarceration after sentencing.

Additionally, between FY 2020 and FY 2021, 550 offenders were sentenced for misdemeanor protective order violations, of which 76.5 percent received a jail term with a median sentence of 20 days. The remaining 23.5 percent did not receive an active term of incarceration after sentencing.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 552, 2021 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

According to the Courts, any potential fiscal impact as a result of this proposed legislation is indeterminate at this time. There is no anticipated fiscal impact on the Department of Juvenile Justice as a result of the provisions of this bill. The proposed legislation may increase jail bed space needs, but the magnitude of the impact on local and regional jails cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Department of Juvenile Justice, Courts, and Local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is a companion to HB1015.